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President: Mr. CONSO (Italy)

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF THE QUESTION CONCERNING THE FINALIZATION AND ADOPTION OF A CONVENTION ON THE ESTABLISHMENT OF AN INTERNATIONAL CRIMINAL COURT IN ACCORDANCE WITH GENERAL ASSEMBLY RESOLUTIONS 51/207 OF 17 DECEMBER 1996 AND 52/160 OF 15 DECEMBER 1997 (*continued*) (A/CONF.183/2/Add.1)

1. **Mr. YASSIN** (Sudan) said that his country's constructive contributions at all the stages leading to the Conference reflected its strong support for the establishment of a permanent international criminal court whose existence would make it impossible for those who committed monstrous crimes against humanity to escape punishment.

2. According to the draft Statute, the role of the International Criminal Court (ICC) would be complementary and not parallel to that of national criminal courts. Also, it should not be regarded as a watchdog over national judicial systems.

3. Neither Member States nor international political organs should be permitted to interfere with the Court's activities. In that respect, the International Court of Justice could serve as a model, being a wholly neutral, impartial and independent international judicial body. The Statute of the International Criminal Court should enable it to contribute constructively to peace and security. It would consolidate customary legal principles, while respecting the national sovereignty of States. With the advent of globalization, the aim should be to strengthen international cooperation, while fully respecting the cultural characteristics of each nation. For example, article 3 of Additional Protocol II to the Geneva Conventions unmistakably reaffirmed that national judicial organs were alone responsible for enforcing the principles stipulated in that Protocol and for punishing those who infringed them. That could be guaranteed only if the Prosecutor did not interfere in the affairs of States.

4. He reiterated his commitment to the declarations adopted by the African Permanent Representatives to the United Nations in New York and by the Ministerial Conference of Non-Aligned Movement held in Colombia, as well as the consensus reached by the Arab Group on the establishment of the International Criminal Court at their meeting of May 1998.

5. **Mr. GÜNEY** (Turkey) said that the draft Statute of an international criminal court had been the subject of painstaking in-depth study by the international community for the last decade. The creation of the ad hoc Tribunals for the Former Yugoslavia and Rwanda had highlighted the need for an international criminal court, since the proliferation of ad hoc tribunals might lead to inconsistencies in the development and application of international criminal law. However, some initial lessons could be drawn from the establishment of those temporary specialized Tribunals in approaching the creation of a permanent court.

6. Turkey had, from the outset, supported the creation of a credible, universal, impartial and independent international criminal court to bring to justice the perpetrators of the most serious crimes of concern to the entire international community. The draft Statute should provide assurances that the future Court would complement national courts and that the new regime would not call in question current law enforcement efforts. The Statute should specify the type of act that constituted a crime, and the nature and limits of the penalty imposed.

7. Particular care was needed to ensure protection of the rights of the accused, bearing in mind that in most cases the accused would be tried by judges from different cultural backgrounds. Greater thought should be devoted to

the obligation of States parties to communicate evidence and extradite criminals within defined limits, and to the principle of *non bis in idem*.

8. Crimes were listed in the draft Statute without specifying the international instruments in which they were defined. The crime of aggression and crimes against humanity were not defined with the precision required in criminal law. There was, moreover, no generally accepted definition of the crime of aggression for the purposes of determining individual responsibility and there was no relevant precedent. Aggression was primarily related to action of States and not of individuals.

9. The crime of terrorism, which was linked with transnational organized crime, had already been legally delimited, but the international community had failed to develop a general definition. However, a series of agreements dealing with specific categories of acts which were unanimously condemned had been concluded.

10. States must refrain from organizing or encouraging terrorist activities in the territory of other States and from tolerating activities in their own territory directed toward that end.

11. Systematic and prolonged terrorism was a crime of international concern. A systematic terror campaign waged by a group against a civilian population would be a crime under international law, and, if inspired by ethnic or racial motives, would fall under article 5 of the draft Statute. Terrorism was often sustained by large-scale drug trafficking, which had an undeniable international impact. Those two crimes should therefore be covered under article 5.

12. It should be possible to accept the Court's jurisdiction for all or only some of the crimes referred to in this Statute. He therefore fully supported the "opt-in/opt-out" approach.

13. The right to lodge a complaint should be reserved to States and the Security Council, pursuant to Chapter VII of the Charter. A more liberal system might deter States from becoming parties to the Statute or from accepting the competence of the Court, out of fear of abuses by other States. The prevailing opinion in the Preparatory Committee had been that the Prosecutor should not be empowered to initiate proceedings ex officio. The independence of the Prosecutor went without saying under international law and merely strengthened the principle that investigation and prosecution should be triggered by complaints.

14. The move to authorize only limited reservations might considerably reduce the number of States parties acceding to the Statute, so that a more flexible attitude must be adopted. If that were not done, the incorporation of Statute provisions in domestic law would certainly raise basic constitutional problems during ratification or accession procedures. Entry into force on the basis of a very few ratifications and accessions might deprive the Court of the necessary authority to act on behalf of the international community. A balanced solution fixing the number at a minimum of one third of the members of the United Nations should therefore be found.

15. A flexible and realistic approach must be taken to the establishment of the Court in order to ensure the support of the international community. Efforts should be made to work out the best possible Statute, not the ideal Statute, so that a large number of States could support it, which was the essential precondition for the legitimacy of the Court and its universal character.

16. **Mr. SANGIAMBUT** (Thailand) said that tribunals set up to deal with specific situations did not offer an appropriate means of prosecuting all international crimes. He hoped to see the establishment of a permanent, independent and truly impartial international criminal court.

17. The International Criminal Court should in no way supersede national courts but must complement national judicial systems, trying a person only where a national court had proved to be genuinely ineffective or unavailable.

18. The International Criminal Court could be a credible alternative mechanism in the suppression of crimes relating to narcotic drugs, since cooperation through bilateral agreements or Interpol was ineffective. His country had therefore proposed that illicit traffic in narcotic drugs and psychotropic substances should fall within the jurisdiction of the International Criminal Court.

19. To ensure the early, effective and continuous functioning of the Court, it should be financed initially from the budget of the United Nations. Thereafter, when the number of States parties was adequate, the latter should assume responsibility for financing the Court.

20. **Mr. GONZALEZ GALVEZ** (Mexico) recalled that efforts to create a permanent international criminal court could be traced back to the Codification Conference held at The Hague in 1909. Those efforts had not been very successful, and, if the present Conference were to avoid a similar fate, realism and a spirit of cooperation to find common ground would be required.

21. He fully supported the creation of a permanent court, which would have clear advantages over the ad hoc tribunals established by such organs as the Security Council. The Court should be independent and, unlike the International Court of Justice, should not be linked to the United Nations. Its impartiality and the legal certainty of its decisions must be guaranteed, and its Statute must provide essential guarantees of due process, including those specified in article 14 of the International Covenant on Civil and Political Rights.

22. The success of negotiations at the Conference would depend on how the principle of complementarity was formulated. While it could not be based on the consent of States, there must be clear safeguards to prevent the infringement of national sovereignty. He would, therefore, submit proposals concerning draft article 15. At the same time, he announced the withdrawal of the alternative formulation of that article contained in the report of the Preparatory Committee. The purpose was to give a clear definition of cases when the Court could act, by stating that the Court was not established to replace national judicial systems, but to complement them in punishing the international crimes set out in the Statute.

23. Initially, the jurisdiction of the Court should be limited to genocide, crimes against humanity and war crimes, which should include crimes against women and children, especially involving sexual assault.

24. Individual responsibility for the crime of aggression would be acceptable to his country only if it were not linked to the contention that only the Security Council could determine the existence of aggression. The Court's jurisdiction should apply only to individuals and not to States. It should be financed independently by the States parties.

25. **Mr. ZAMIR** (Bangladesh) said that the Diplomatic Conference offered a rare opportunity for the international community to put in place a system of justice to redress unspeakable crimes. The Court must be independent and free from possible interference in its judicial process. It should have inherent jurisdiction over core crimes and also enjoy a wide measure of acceptance and support. His country already had a comprehensive law for the punishment of crimes against humanity and breaches of the Geneva Conventions.

26. He strongly supported giving full effect to the common article 3 of the 1949 Geneva Conventions. The distinction between international and non-international conflicts was becoming increasingly irrelevant, viewed in

terms of universal peace and security. Attacks on humanitarian workers and international peacekeeping personnel should be included within the jurisdiction of the Court. Systematic sexual violence and gender crimes during periods of conflict should be defined in explicit terms as crimes against humanity and as war crimes. Finally, he believed that the list of war crimes should be expanded to cover the use and threat of use of nuclear weapons and expressed his support of the position of the Non-Aligned Movement on nuclear proliferation.

27. High standards of international criminal law and justice demanded that the crimes to be included in the Statute should be defined with clarity and precision for the sake of deterrence and the integrity of the new process.

28. The Court should be financed in the initial stages from the regular United Nations budget, to ensure global participation.

29. **Mr. IMBIKI** (Madagascar) said that it was the legitimate concern of the community of nations to ensure that atrocious crimes did not go unpunished. He called on government leaders and all peace-loving and justice-loving men and women in civil society to use their influence to bring about the establishment of an international criminal court. International law would then prevail, so that no State or military leader would feel free from prosecution and punishment for acts against humanity and human rights.

30. The Court should be independent, impartial and effective and should respect the rights of self-defence according to internationally accepted standards and standards of sovereignty. It must have jurisdiction to rule in the interest of victims and to protect the safety of witnesses. To ensure its lasting credibility, its composition must reflect a well-balanced geographical distribution. The Hague, with its experience of international justice, should be the seat of the Court.

31. He shared the general agreement that the crimes of genocide, aggression, war crimes and crimes against humanity should be included in the Statute, and also, in view of their exceptional gravity, trafficking in narcotic drugs and psychotropic substances, the deposit of toxic or nuclear waste within the territory of a State, the sale of arms or munitions to governments not recognized by the international community or to military leaders, except in cases authorized under international law.

32. It might be argued that including the latter offences would make the Court ineffective. However, one of the Court's objectives was to deter criminal acts leading to the mass destruction of human lives. Therefore, if his proposal was not accepted, he would propose that the Final Act of the Conference include a review clause, so that the subject could be taken up at a later time.

33. The ICC should take up cases only on the basis of complementarity. As long as a State had the capacity to undertake an investigation and open proceedings itself, the Court should not intervene. However, its intervention would be fully justified when governments prosecuted their predecessors in office out of motives of revenge.

34. Failure by the Security Council to determine aggression, or deal in such determination, had led to massacres. For reasons of efficiency and to separate prosecution before the Court from the political concerns of the Members of the Security Council, the independent Prosecutor should have the power to trigger prosecution, without prejudice to the right of the Security Council or a State party to refer crimes to the Prosecutor. However, safeguards should be provided. For example, the Prosecutor's action could be made subject to authorization by the judges. On the other hand, the intervention of the Security Council would be necessary to compel States parties to enforce the sentences of the Court.

35. **Mr. KELLENBERGER** (Switzerland) said that the goal of the Conference was to establish a permanent international court to punish crimes such as genocide, war crimes, and crimes against humanity committed by individuals, whenever national courts could not or would not perform their duty. The emerging concept of individual international responsibility, foreshadowed by the Nuremberg and Tokyo trials, had been confirmed by the establishment of the ad hoc Tribunals for the Former Yugoslavia and Rwanda. The task of the Conference was to consolidate that advance by creating a permanent international criminal court with the greatest possible effectiveness and universality.

36. However, the Court must have the means for the effective performance of its task. It should have mandatory jurisdiction over the States parties to its Statute, without being subject to reservations or the consent of States or United Nations organs. Otherwise, it might be reduced to the level of an *à la carte* tribunal, a sham institution incapable of taking effective action.

37. The acts within the competence of the new Court must be defined in terms of contemporary international law. Such definition was necessary because the barbaric acts that had characterized many modern international or internal conflicts or even situations that could not count as armed conflicts must not go unpunished. However, he shared the view that in order to preserve the distinctiveness of the new institution, it must focus on the most serious acts: genocide, war crimes, and crimes against humanity.

38. Enforcement at the international level against those three types of crime was of concern to the whole human community. Not only States and the Security Council but also the Prosecutor, whose duty it was to represent that community, should therefore be able to trigger enforcement.

39. The establishment of the International Criminal Court should not relieve national courts of their duty to punish individual acts that contravened the law of nations. Those authorities should be set aside only where they were not discharging their duty or doing so inadequately. He therefore supported the principle of complementarity, but not if it were formulated in such a way as to encourage impunity.

40. **Mr. SIMELANE** (Swaziland) fully associated himself with the statement made earlier on behalf of the Southern African Development Community (SADC). The resurgence of crimes against humanity had once again underscored the need to establish an effective judicial mechanism to end impunity and bring the perpetrators of heinous crimes to justice. He attached great importance to the success of the Conference, in helping to create a world in which peace and justice reigned supreme.

41. In keeping with the principle of sovereignty of States, the jurisdiction of the Court should not replace that of national courts, but should be applicable only in respect of core crimes where national judicial systems had collapsed or were unable to act. To be truly effective, the ICC should have inherent jurisdiction over all the core crimes. A requirement for the consent of States would render it ineffective.

42. To guarantee its universality, impartiality and independence, the Court must be free of political motivations. He hoped that an acceptable solution would be found regarding the role of the Security Council in its discharge of its obligations under Chapter VII of the Charter.

43. Furthermore, the independence and effectiveness of the Court would depend largely on its ability to exercise jurisdiction when a national criminal justice system had failed. He therefore fully supported the view that the Prosecutor should be able to initiate proceedings ex officio and need not rely on a complaint by a third party in

order to proceed. Information obtained from a source considered reliable by the Prosecutor should be a sufficient basis for the initiation of proceedings.

44. He emphasized that, to enhance the Court's permanence, legitimacy and authority, it should be established by a multilateral treaty, and not be made a subsidiary organ of the Security Council or the General Assembly. However, as an expression of the international community's resolve to suppress the crimes covered by the Statute, it should be linked with the United Nations.

45. **Mr. VENGADESAN** (Malaysia) said that, in principle, he supported the establishment of an international criminal court.

46. He agreed that the Court should complement and not replace national courts. In setting up a court to judge those who had committed very serious crimes abhorred by the international community, the national sovereignty of all nations must be upheld.

47. It was of paramount importance that the Court be truly independent, fair, effective and efficient, so that it could dispense justice in accordance with principles acceptable to the international community, bearing in mind diverse legal systems and cultures.

48. The core crimes of genocide, war crimes and crimes against humanity should be included in the Statute, though his delegation had expressed certain reservations during the Preparatory Committee meetings. He did not, however, support the inclusion of the so-called treaty crimes, because they were best left to the national courts.

49. The question of the trigger mechanism was inevitably related to the question of acceptance of the Court's jurisdiction and would have implications for the jurisdiction of national criminal courts; hence, sovereignty should always be upheld. To protect sovereignty he could consider supporting the opt-in mechanism or the "case-by-case" approach. The consent requirement should not be extended to the State of the nationality of the victim or the accused.

50. Whilst the Prosecutor should be able to act independently in discharging his duties, it was equally important that he or she should not be empowered to initiate an investigation *proprio motu* in view of the principle of complementarity and the danger of adverse effects on the integrity and credibility of the office and possible accusations of bias. Furthermore, effective investigation by the Prosecutor would depend on the full cooperation of States, especially of those which had a direct interest in the case.

51. **Mr. NYASULU** (Malawi) fully endorsed the statement made on behalf of the Southern African Development Community (SADC).

52. The idea of establishing a permanent international criminal court had long been on the international agenda. It was now time to conclude work on the Statute and make the international order complete and secure for present and future generations. However, while he supported the early establishment of a permanent international criminal court, he pointed out that certain aspects should not be ignored.

53. First, the Court must be independent, able to command the respect of all nations and of those on whom it would sit in judgement, being immune from outside influence.

54. Secondly, it must be impartial, dispensing, and seen to be dispensing, international justice. The Court must be fair and just.

55. Thirdly, it must be an effective court, with adequate power to fulfil its mandate and, as the final outcome, bring an end to impunity. It would complement rather than compete with national criminal justice systems.

56. The Court would make the fate of victims one of its principal concerns and would have powers to order rehabilitation or reparations.

57. He supported the proposal by the Netherlands to host the Court.

58. **Mr. SLADE** (Samoa) said that the aspiration to establish a permanent international criminal court had occupied the international community for much of the twentieth century, which had experienced the horrors of two world wars and the atrocities of countless civil conflicts. The time was ripe for the establishment of such a court. Ad hoc measures were never sufficient, as the Tribunals for the Former Yugoslavia and Rwanda had shown. A court of international criminal justice would contribute significantly to the maintenance of international peace and security. With clear provisions relating to its powers and jurisdiction, such a court would constitute an effective global deterrent. It was unacceptable that very serious crimes should go unpunished.

59. The Court should have inherent jurisdiction over the core crimes of genocide, crimes against humanity and war crimes, no matter where they were committed. It should be an effective complement to national courts when the latter were unable or unwilling to bring to justice those responsible for grave crimes.

60. Methods of warfare such as the use of nuclear weapons or of weapons which were inherently indiscriminate should also be covered in the Court's Statute, bearing in mind the recent advisory opinion of the International Court of Justice concerning the legality of the threat or use of nuclear weapons.

61. There was now significant consensus in customary international law regarding the protection of women and children, so that gender-related crime should be included in the Court's Statute. The Court would not be best equipped to deal with the needs of young persons and should not have jurisdiction over persons under 18. There should also be provision for the special needs of victims, including payment of compensation, as well as provision for the welfare and security of witnesses.

62. An independent prosecutor would be essential. The Prosecutor should have the power to initiate investigations *proprio motu*, based on information from any source, subject only to appropriate judicial scrutiny. Effective judicial independence must be ensured. No political body, including the Security Council or States themselves, should be allowed to stop or delay an investigation or prosecution.

63. A State that became a party to the Statute must accept the Court's jurisdiction without reservation. The Court should be funded through the regular budget of the United Nations according to the set scale of contributions. Voluntary contributions could also be made. That held out better prospects for universal participation, and for the Court's long-term financial security.

64. **Mr. AL-THANI** (Qatar) said that mankind categorically condemned war crimes, crimes against humanity and genocide, yet very few of the perpetrators had been prosecuted. The day when the United Nations established war crime tribunals in Bosnia and Herzegovina and Rwanda was the beginning of a process leading to the

establishment of a permanent international criminal court, which aimed not only to ensure the victory of truth and justice and the prosecution of criminals but also to spread peace and stability throughout the world.

65. He looked forward to the establishment of a permanent, independent, effective court, empowered to discharge specific tasks, yet not a substitute for national courts. His aspiration was for a court that would effectively put an end to the crimes of aggression, genocide, and war crimes and bring justice for all communities.

66. The role of the Prosecutor should be confined to receiving complaints from the Security Council or from the Member States; he or she should not be empowered to initiate proceedings *proprio motu*.

67. **Mr. AL-BUSAIDY** (Oman) said that he looked forward to the establishment of an international criminal court which would help to put an end to bloodshed and prosecute those responsible for such heinous crimes as ethnic cleansing, aggression, genocide, torture and the forcible transfer of defenceless civilians. It was heartening that the issue was no longer whether it was possible to establish an international criminal court but rather how to establish a highly effective court.

68. The lessons of the ad hoc Tribunals for the Former Yugoslavia and Rwanda had confirmed the need for the establishment of an international criminal court. By helping in the development of international law and procedures, however, those Tribunals had paved the way for the establishment of a highly effective court. He paid a tribute to the part played by non-governmental organizations in that effort.

69. The Court should have jurisdiction to prosecute the perpetrators of brutal crimes and to administer justice to all without distinction. Its sphere of competence should be made clear. He supported the inclusion of genocide, crimes of war and crimes against United Nations personnel in the jurisdiction of the Court, as well as the crime of aggression as defined in General Assembly resolution 3314 (XXIX) of 14 December 1974. A distinction should be made between aggression and the right to armed struggle in exercise of self-determination. Crimes against humanity should be clearly defined.

70. The Court should be complementary to national courts, replacing them only when it was determined that an effective national system of justice was unavailable. Only States and the Security Council should be permitted to bring a case to the Court. The Prosecutor should not have the right to institute an action in the Court *proprio motu*. The Court should be technically and financially independent, although it must be linked to the United Nations. He saw no justification for the inclusion of a statute of limitations with regard to heinous crimes.

71. Allowing States to voice reservations as called for by the Vienna Convention on Diplomatic Relations would make possible more accessions to the Statute.

72. **Mr. SOARES** (Cape Verde) said that, in the course of the century that was drawing to a close, the world had witnessed a series of events which constituted an affront to humanity. It was unacceptable that some crimes continued to go unpunished and that fundamental human rights were disregarded. For those reasons, Cape Verde had from the very beginning supported the idea of establishing an international criminal court.

73. The new Court should have well-defined jurisdiction and powers to prosecute crimes against humanity which were not prosecuted by existing institutions. Such a court should not focus exclusively on crimes at the international level but should also prosecute crimes committed in a national context which were not dealt with in the most effective way at that level. The Prosecutor should enjoy independence so that the institution could have the necessary credibility.

74. He supported the establishment of a permanent, independent international court based on the principle of complementarity and with jurisdiction over war crimes, genocide, crimes against humanity and crimes of aggression, in both international and internal armed conflicts.

75. He welcomed the offer by Netherlands to host the Court in The Hague.

76. **Mr. ADAMOU** (Niger) said that his delegation subscribed to the institution of a permanent, independent, impartial and effective international criminal court, which should have jurisdiction to prosecute crimes against humanity, war crimes, crimes of aggression and genocide. The Prosecutor must be independent and must be able to open proceedings *proprio motu*.

77. The Court should not abide any interference. The Security Council and States must in no case delay or interrupt investigation and prosecution by the Court.

78. The Court should take up cases within its jurisdiction only if national courts were not able to bring to justice those responsible for such crimes. The role of the Prosecutor and the rules of procedure and of evidence should be specified in the Statute.

79. To make the Court independent and impartial, it should be financed through the United Nations system, on the basis of the prorated contributions of Member States to the regular budget of the United Nations.

80. **Mr. NGUYEN BA SON** (Viet Nam) welcomed the establishment of the Court because it was widely recognized that international criminals should not go unpunished but that few of the many efforts to deal with international criminal offences had proved adequate, effective or comprehensive. He fully supported the Declaration by the Non-Aligned Movement on the establishment of an international criminal court. The Court must be independent, fair, impartial and effective. As an international judicial body, it must not be influenced by political, financial or other considerations. Its independence and impartiality would not only ensure its effectiveness in fulfilling its mandate but also attract accessions from Member States.

81. The principle of complementarity should be set forth clearly in the Statute, which meant that the Court should not replace national judicial systems. In principle, States would have prior jurisdiction over all relevant cases, and the Court's jurisdiction should be limited to the core crimes of genocide, crimes of aggression, crimes against humanity and war crimes. He strongly supported the inclusion of aggression as an international crime.

82. The principle of the primacy of national jurisdiction, namely, the rights and obligations of States concerned to investigate and prosecute crimes falling within their jurisdiction, had been broadly accepted in international law. Any action by the Court without the prior consent of the States concerned would constitute an encroachment of State sovereignty.

83. International cooperation and judicial assistance by the States parties to the Statute were also of great importance. The Court could effectively fulfil its mandate only through effective cooperation with the States in which the crimes had been committed or the States of the nationality of the offenders or the victims.

84. The principle of equitable geographical distribution should be reflected in the composition of the Court, with appropriate representation of different areas and different legal systems. With the aim of promoting the Court's universality, the Statute should be adopted by consensus. He was in favour of the inclusion of a provision on reservations.

85. **Mr. IBRAHIM** (Nigeria) said that his country supported the creation of a permanent international criminal court to deal with serious crimes such as genocide, crimes against humanity, war crimes and crimes of aggression. However, its jurisdiction must be properly defined, and its Statute must be drafted so as to preserve the cardinal principle of sovereignty of States. The judicial functions of the Court must not be prejudiced by political considerations or by actions of the Security Council.

86. He was convinced that an effective international criminal justice system complementary to national systems would contribute towards the maintenance of international peace and security. The use or threat of use of nuclear weapons, the use of anti-personnel mines and other weapons of mass destruction should be defined as war crimes. Similarly, crimes related to international terrorism, money-laundering, drug trafficking, and crimes against the United Nations and associated personnel should come under the jurisdiction of the Court. Those were of as much concern to the international community as the four core crimes.

87. He had a reservation about the proposed role of the Security Council. While there should be a relationship between the United Nations and the Court under an agreement, he was opposed to conferring on the Security Council the exclusive right to determine when aggression was committed and to refer such cases to the Court. The Court should not be encumbered at the outset by avoidable political influences. The power of the Security Council under Chapter VII of the United Nations Charter should not extend to the Court.

88. He also had a strong reservation to the ex officio powers of the Prosecutor under article 12 of the draft Statute. Giving the Prosecutor such power without any safeguards might entail the risk of political manipulation, which would not augur well for the independence of the Court.

89. He endorsed the proposition that the Court should be complementary to national criminal justice systems and should operate in cases where trial procedures did not exist or might be ineffective. However, it was not yet clear who should determine how and on what criteria a national system would be assessed to be ineffective. In that connection, he reiterated his full support for the collective African position set out in the OAU Declaration on the Establishment of an International Criminal Court, adopted at Ouagadougou, Burkina Faso, in June 1998. That Declaration underlined, *inter alia*, that the cardinal principle of the sovereignty of States should be preserved in the Statute of the Court, and that the Court should be complementary to national criminal justice systems and be based on the consent of the States concerned. A similar declaration had been made in May 1998 by the Ministerial Meeting of the Coordinating Bureau of the Non-Aligned Movement in Cartagena, Colombia.

90. An effective, independent and impartial international criminal court must enjoy the confidence of States parties. It was therefore imperative to observe the principle of equitable geographical distribution in the composition of the Court. It must be free from political influences of any kind and independently financed.

91. **Mr. MANIWA** (Democratic Republic of the Congo) said that despite the existence of texts to protect and promote human rights, the world had witnessed unprecedented depths of barbarity. The international community had proved powerless to prevent atrocities or even punish the perpetrators. Indeed, his own country had suffered the influx of millions fleeing from the genocide in Rwanda. His delegation therefore believed that the creation of an international criminal court was an imperative need.

92. As a member of SADC, his country shared that Organization's position as set forth by the representative of South Africa. In particular, he supported the creation of an effective, independent, impartial, efficient, universal international criminal court. Its composition should reflect equitable geographical distribution. General principles of criminal law should be observed, namely, non-retroactivity, *non bis in idem*, *nullum crimen nulla poena sine*

lege, respect for the rights of the defence, and the presumption of innocence. There should be complementarity between the Court and national courts, cooperation between States and compensation of victims.

93. In addition, the Court should be able to function without interference from any other organ, especially the Security Council. The Prosecutor should be sufficiently independent and protected from outside influence, integrity and competence being essential qualifications. The Court should have jurisdiction to deal with genocide, war crimes and crimes against humanity and other offences to be defined by the Conference. He supported the candidature of The Hague as the seat of the Court.

94. **Mr. LEWIS** (United Nations Children's Fund—UNICEF) said that the establishment of an effective and fair international criminal court would send the unequivocal message from the international community that heinous violations of human rights could not go unpunished. He associated himself with the views expressed by the Secretary-General of the United Nations and the United Nations High Commissioner for Human Rights.

95. The rights of children and women, overwhelmingly the primary targets in conflicts as victims, witnesses, manipulated and abused participants, were a matter of great concern to UNICEF, and should be recognized under the Statute. There was growing evidence that sexual abuse and gender-based violence had become an intrinsic strategy in armed conflicts. Events in Rwanda, the former Yugoslavia and recently Sierra Leone illustrated the horrifying levels of violence against women and girls, including rape, mutilation, forced pregnancy, sexual slavery and forced prostitution.

96. In keeping with the Convention on the Rights of the Child, the recruitment of children under 18 into armed forces or groups, or their direct or indirect participation in hostilities, should be considered as war crimes under the jurisdiction of the Court. Violence, rape and inducement or coercion into prostitution or other forms of sexual exploitation against children should be considered as war crimes.

97. The Court should have no jurisdiction over persons under 18, since it could not provide the rehabilitative emphasis which juvenile justice required. Moreover, the commission of serious crimes by children was often the result of indoctrination and manipulation by adults, who should be held accountable. The death penalty, life imprisonment or long periods of deprivation of liberty must not be applicable to children under 18. However, the Statute should promote measures for the rehabilitation and psycho-social recovery of child victims, whatever their age, in application of the Convention on the Rights of the Child. UNICEF further believed that schools, churches and hospitals should never constitute military targets and that the laying of anti-personnel landmines should be considered as a war crime. The Court should also have jurisdiction over attacks against humanitarian personnel when working in situations of potential violations of human rights.

98. **Mr. LINATI-BOSCH** (Observer for the Sovereign Military Order of Malta) said that the Order had devoted itself for nine hundred years to humanitarian aid, without distinction as to race, religion or nationality. He could not, therefore, remain indifferent to the creation of a new organ that would strive to prevent and punish international crimes, whether they originated from armed conflicts or not. Such a permanent international court would make an important contribution to public international order. The competence of the Court should cover genocide, war crimes, and the protection of human life. Its composition and its relations with sovereign States and the United Nations would need the most careful consideration, in order to ensure that the Court would be permanent, effective, independent, efficient, credible and trustworthy.

99. **Mr. MAHARAJ** (Trinidad and Tobago), speaking as Observer for the Caribbean Community (CARICOM), said that he attached great importance to the establishment of a strong, independent, impartial and effective court.

100. No judicial body could achieve and maintain respect if it was subject to political interference. While recognizing that the Charter responsibilities of the Security Council could not and should not be undermined, he emphasized that the Court must be free from any political interference by the Security Council.

101. The Statute of the Court must strike a balance between the desire to achieve justice on an international plane and full respect for the fundamental principle of the sovereignty of States. The principle of complementarity was most important; indeed, the Court should be empowered to act only where a national court was unwilling or unable to exercise jurisdiction.

102. While the Prosecutor should have a strong and independent position, it was of vital importance that proper safeguards be put in place to prevent any misuse or abuse of power.

103. He supported the inclusion of aggression within the jurisdiction of the Court, provided that an acceptable definition of that crime could be agreed upon. In view of the threat posed by the international drug trade, he urged the Conference to give serious consideration to the inclusion of drug-related crimes within the jurisdiction of the Court.

104. Many CARICOM States would have difficulty in accepting penal provisions which ruled out the death penalty for capital offences. Their concerns should be taken fully into account in the deliberations of the Conference.

105. He hoped that due consideration would be given to gender balance and equitable geographical distribution in the composition of the principal organs of the Court.

106. **Mr. ROTH** (Observer for Human Rights Watch) said that if the Court was to realize its deterrent potential against genocide, crimes against humanity and war crimes, it must be strong and independent. Allowing States to prevent the Court from exercising jurisdiction on a case-by-case basis would paralyse it and effectively turn the Security Council into the only trigger mechanism, with the attendant risk of vetoes by permanent Members. No Court that was seen as an arm of the Security Council would enjoy the credibility it needed to operate effectively. While the Security Council would have an active enforcement role, in practice enforcement would depend much more often on State cooperation, which in turn would depend on the Court's credibility and legitimacy.

107. To ensure that those responsible for all serious atrocities were brought to justice, even when individual States found it inconvenient, the Court must have an independent Prosecutor authorized to investigate and prosecute serious crimes wherever and by whomever committed.

108. The Court must have jurisdiction over the full range of serious crimes, including war crimes committed in internal armed conflicts, which constituted the vast majority of contemporary atrocities, as well as abuses specific to women and children.

109. There was widespread support for an independent, effective, impartial Court throughout Africa, Latin America and the Caribbean, Europe and Asia. However, in the light of the very strong guarantees against frivolous or unfounded prosecutions, which were to be enshrined in the Statute, he hoped that no country would insist on what amounted to immunity from prosecution. All States should remain true to their principles and create an effective tribunal with real deterrent impact. It would be wrong to accept a weak Statute in the unrealistic hope that it would be improved in the future.

110. **Ms. BEDONT** (Observer for the Women's International League for Peace and Freedom) said that, since its formation in 1915, her organization had been strongly committed to promoting world disarmament and the peaceful resolution of international conflicts. She shared the belief that the proposed International Criminal Court could be a tool for the promotion of peace worldwide. Lack of accountability for violations of human rights spawned a cycle of vengeance and violence that prevented the achievement of genuine and lasting peace. The International Criminal Court had the potential to break the cycle of violence by providing a means of redress for atrocities and by deterring heinous crimes. The Court's Statute must be equitable, so that the Court would have credibility and could provide an effective deterrent against heinous crimes.

111. The prohibition of weapons systems under the Statute should take a generic approach and should cover all weapons that caused unnecessary suffering, superfluous injury or that were inherently indiscriminate. A non-exhaustive list of weapons could be added, including landmines, laser weapons and nuclear weapons, which would allow judges flexibility to include present or future systems which fitted the general criteria. However, if the addition of the non-exhaustive list was too controversial, a statement of the general principles against indiscriminate and excessively injurious weapons would be a reasonable compromise.

The meeting rose at 1.05 p.m.

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SUMMARY RECORD OF THE EIGHTH PLENARY MEETING

Held at the Headquarters of the Food and Agriculture Organization of the United Nations on Thursday, 18 June 1998, at 3 p.m.

President: Mr. CONSO (Italy)

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF THE QUESTION CONCERNING THE FINALIZATION AND ADOPTION OF A CONVENTION ON THE ESTABLISHMENT OF AN INTERNATIONAL CRIMINAL COURT IN ACCORDANCE WITH GENERAL ASSEMBLY RESOLUTIONS 51/207 OF 17 DECEMBER 1996 AND 52/160 OF 15 DECEMBER 1997 (*continued*) (A/CONF.183/2/Add.1)

1. **Mr. JENSEN** (Denmark) said that the Diplomatic Conference was a historic opportunity to create an effective, independent and fair international criminal court that would act as a deterrent and bring to justice persons responsible for the most serious crimes under international law when domestic criminal justice systems failed. Complementarity being vital, the Court should not act when national systems were able and willing to do so, but should have the authority to determine when national systems were unable or unwilling to act.

2. The Court's jurisdiction should be limited to the so-called "core" crimes under general international law, including genocide, crimes against humanity, war crimes and aggression. Without the inclusion of aggression, the Court's Statute would be incomplete, although a balance would have to be struck between the need of the Court to be free from political influence and the need to take the Security Council's responsibilities into account.

3. The Statute should make provision for a review mechanism to allow the addition of other crimes in the future. The Court must also have jurisdiction over crimes committed in internal armed conflicts. Rape and other crimes of sexual violence committed in armed conflicts should be properly defined and explicitly listed as war crimes in the Statute. The recruitment of children under 18 into armed forces or groups should also be included as a war crime.

4. States acceding to the treaty must accept the Court's jurisdiction over all the crimes listed in the Statute and must cooperate with it. States' consent should not be required before individual prosecutions or investigations could proceed. All States parties to the Statute should be able to trigger action by the Court. In addition, the Security Council must be able to refer situations to the Court under Chapter VII of the Charter. The Prosecutor should have the power to start investigations ex officio, on the basis of information obtained from any reliable source, including non-governmental organizations (NGOs). The Statute must provide for a fair trial and due process at all stages of the proceedings. There should be no capital punishment, but a maximum sentence of life imprisonment.

5. The International Criminal Court should have a close relationship to the United Nations and should be financed out of the United Nations regular budget.

6. **Mr. SADI** (Jordan) said that the goal was to create a credible juridical deterrent to those who intended to commit grave breaches of international humanitarian law. If that deterrent failed, those believed guilty could be prosecuted by the Court, not only to establish the truth, but also to afford some measure of justice to the victims. Grave crimes should be prosecuted, whether they occurred in internal or external conflicts, and whoever committed them.

7. One basic requirement for an effective and independent international criminal court was the ex officio power of the Prosecutor to initiate investigations, which would be all the more critical in the light of the State consent regime that was under consideration.

8. There was an inherent risk that the lowest common denominator approach would produce a weak legal institution, rather than one enjoying worldwide respect. If the principle of reservations were endorsed by consensus,

it should be applied very conservatively. On the vexed issue of the death penalty, he noted that, while international human rights instruments called for the phasing out of capital punishment, they did not yet prohibit it altogether.

9. The attempts by some delegations to pick and choose from the Geneva Conventions those elements that should or should not be included in the definition of war crimes were totally unacceptable. The Commission on Human Rights should have the same power as the Security Council to refer cases of gross human rights violations to the Court. While the Security Council had the prime responsibility for the security-related aspects of aggression, the Court could have concurrent jurisdiction over those aspects that fell within its scope.

10. **Mr. CHKHEIDZE** (Georgia) said that the establishment of a permanent international criminal court would significantly contribute to strengthening the rule of law. Despite the achievements of civilization, atrocities still remained invariable concomitants of modern warfare and were even more brutal when committed in non-international armed conflicts.

11. The Court should have jurisdiction over genocide, aggression, war crimes committed in both internal and international conflicts and crimes against humanity. While he supported the principle of complementarity, he emphasized that the Court should not be reduced to a residual mechanism for dispensing justice. Unless it were truly empowered to step in where national systems proved incapable or unwilling to punish the perpetrators of serious crimes, and were competent to determine that national systems had failed, it would be of limited value.

12. He agreed that the Security Council should have the power to bring matters before the Court, but the independent Prosecutor should also be able to trigger proceedings at the request of a State party.

13. The Court should be established by treaty, its relationship with the United Nations being dealt with in a special cooperation agreement.

14. **Mr. AGIUS** (Malta) said that it was vital to establish an international criminal court, which must be truly effective and free from political interference, and whose Prosecutor would be independent and able to investigate cases and initiate indictments *proprio motu*, without the prior consent of States parties. The Court should have inherent jurisdiction over genocide, crimes against humanity and war crimes. Furthermore, subject to finding a proper formula, the crime of aggression should also be included within its jurisdiction.

15. While the principle of complementarity should remain a pivotal point with regard to jurisdiction, the Court must be judge of its own competence on questions of admissibility. Furthermore, despite the role and obligations of the Security Council in maintaining international peace and security, the Court must be able to operate without undue influence on the part of the Council. The duty of States parties to cooperate fully with the Court should be clearly spelt out. Finally, he concurred with the proposals by several countries and by the European Union that the Statute should ensure respect for the rights of victims, the accused and witnesses at all phases of the proceedings.

16. **Mr. PRLIĆ** (Bosnia and Herzegovina) said that the establishment of the Court would create a strong instrument for preventing and punishing the perpetrators of serious crimes. He hoped that the Court's independence, its complementarity with national courts and its jurisdiction over the most serious crimes would put an end to slaughter, brutal torture, rape and other crimes against humanity.

17. Despite many obstacles encountered by the International Criminal Tribunal for the Former Yugoslavia in apprehending all those indicted for, or suspected of, war crimes, the overall conclusion was that such tribunals were indispensable.

18. The Court should be a just, fair and effective institution, and its Statute should reflect the fundamental principles and expectations of mankind embodied in human rights and other international instruments. The universal jurisdiction of the Court, its effective complementarity to national laws, the independence of its Prosecutor, the cooperation of States parties to the Statute and its independence would ensure its credibility, independence and impartiality.

19. **Mr. USHAKOV** (Russian Federation) said that the task was to create a permanent international criminal court to strengthen peace and justice. It was time to put into effect the principle of individual responsibility for the most serious crimes affecting the international community and to take steps to deter such crimes.

20. The Court must be perceived as an effective, independent authoritative body, a guarantor for the proper exercise of justice. It must in no circumstances become an instrument of political manipulation. It must be universal, the participation of all States being an undoubted priority. Its jurisdiction should extend to genocide, aggression, war crimes, crimes against humanity and the most serious terrorist crimes. It would be a major achievement to extend the Court's jurisdiction to serious violations of the Geneva Conventions committed during non-international conflicts. The Court should certainly be competent to try sexual crimes in that context.

21. The Court's jurisdiction should complement that of national courts when the latter were ineffective in prosecuting such crimes or failed to act in good faith. Its action should be triggered by a complaint from a State or the Security Council. The Prosecutor should be fully independent in carrying out investigations.

22. To be fully effective, the Court should be incorporated in the existing system of support for international peace and stability, and its Statute should take into account the current status of international law so as to secure universal acceptance; a court not working in close combination with the Security Council would be doomed to failure. The Court should have compulsory jurisdiction in cases referred to it by the Security Council and with regard to genocide. With respect to aggression, the Security Council would first have to determine that such an act had occurred. In other cases, the Court would have jurisdiction with the consent of the State on whose territory the crime was committed and of the custodial State. Such consent, in principle, could be given by States when they ratified the Statute.

23. The Statute should provide for full cooperation by States with the Court, without infringing national security. The Statute should unconditionally include fundamental progressive principles of criminal justice such as the presumption of innocence and *ne bis in idem*. The death penalty should not be allowed, in order to ensure the broadest accession by States to the Statute. Likewise, reservations should be permitted to individual provisions of the Statute not relating to points of principle.

24. He supported the proposal to locate the headquarters of the Court at The Hague.

25. **Mr. OPERTTI** (Uruguay) said that the creation of an international criminal court was of the greatest significance with regard to the development of international law and indeed the international community itself. The concept of individual criminal responsibility for infringements of humanitarian law marked a qualitative change from the traditional view that only States were subjects of international law.

26. The permanent nature of the Court did not mean that historic precedents need not be taken into account. However, the Conference must define in abstract terms those forms of conduct that could be criminalized, without abandoning established principles of liberal criminal law, such as the non-retroactivity of criminal legislation *nullum crimen sine lege* and *nulla poena sine lege*.

27. No international crime such as genocide, war crimes or others of similar gravity could remain unpunished or be concealed by a kind of diplomatic composition of differences that diluted responsibility and ultimately spared the offender from legitimate prosecution. States and individuals must recognize the Court as an inescapable, independent, impartial and effective authority. The greatest problems to be discussed were probably related to achieving the necessary harmony between national courts and the new Court on the basis of complementarity. The appropriate functioning of the internal and international judicial spheres would largely determine the support for and recognition of the activities of the Court as the highest judicial authority of the international community.

28. Another sensitive point was the relationship of the Court to the United Nations system as a whole and particularly to the Security Council. The issue, once again, was complementarity and coordination. The Security Council, with its Charter-based competence to preserve peace and security, acted from a political and institutional perspective, and the relationship between the Court and the Security Council should not be one of dependence or subordination but rather of mutual respect.

29. Finally, in view of the collegiate nature of the Court to be created, a similar structure should be set up with regard to the Prosecutor's ex officio competence to initiate proceedings.

30. **Mr. DORNEVAL** (Haiti) supported the statement made on behalf of the Caribbean Community (CARICOM) and said that his Government had a very special interest in the establishment of the ICC and resolutely supported its establishment, in view of his country's experience of slavery and more recent crimes whose perpetrators had gone unpunished.

31. The Court should be independent and impartial, which meant not only that the judges should have freedom of action but also that the institution should be protected against any external influence. It should be impartial in rendering justice to all without distinction or exclusion. To find the support it deserved, the ICC must be complementary to national criminal courts, intervening where local courts were unable or unwilling to act.

32. Action by the Court should be triggered by States parties, the Security Council and the Prosecutor, the latter being subject to control by a Pre-Trial Chamber. Cases should be referred to the Court strictly in accordance with Article 39 of the Charter.

33. **Mr. AL ADHAMI** (Iraq) said that security and peace could prevail only in a regime of justice; therefore, the Statute of the Court should contain clear principles that confirmed its neutrality and objectivity, its independent role and freedom from the political influences of States and international organizations. The Office of the Prosecutor should enjoy the same guarantees of neutrality and independence.

34. In order to strengthen the confidence of the international community, the Statute should strike an acceptable balance between the jurisdiction of the ICC and that of national courts. The principle of complementarity of jurisdiction did not imply any reduction of the sovereignty of national courts. That should be stated more clearly by placing emphasis on the principles of criminal law as rooted in all contemporary national legal systems. It was important to specify that both the use and the threat of use of weapons of mass destruction, including nuclear weapons, constituted war crimes. The Court should be financed by States parties, thus reinforcing its independence.

35. **Mr. AL BADRI** (Yemen) said that the sufferings that had been inflicted upon mankind had prompted the international community to set up ad hoc criminal tribunals and in turn to recognize the need to create an international criminal court .

36. A court that would prosecute the most serious crimes against humanity must be independent and effective and must be created on the basis of complementarity; it must be a court of last resort that would take action when national courts proved unable to do so. Only States parties should be entitled to refer cases to the Court and the penalties should include deterrents consistent with the crimes, even including capital punishment. The Prosecutor should be independent, but his decisions must be subject to review by the Court. The Court's role was strictly judicial, and the Security Council, as a political organ, should not exert any influence over it. The Court must remain free from political considerations but, equally, must not interfere in the internal affairs of States.

37. Action by the Court must not conflict with international instruments, in particular the Charter. States should be allowed to define the crimes to be included in the Statute. The Statute should respect the sovereignty of States and their constitutional rules, so as to avoid difficulties in ratification.

38. **Ms. DROZD** (Belarus) said that the establishment of an international criminal court to try aggression, genocide, war crimes and crimes against humanity would be a global response to horrific events, such as those in Cambodia or Rwanda. Accession to the Statute should logically imply recognition of its jurisdiction over those crimes. However, the Court should have competence with regard to other crimes listed in the initial draft Statute, under a regime of optional jurisdiction. She favoured the principle of complementarity, as a means of ensuring a close tie between the International Criminal Court and national justice systems.

39. While realizing the need to ensure the independence of the Court, she advocated a strong link with the Security Council in initiating proceedings on aggression. The Court could prosecute individuals suspected of committing aggression after a corresponding decision had been taken by the Security Council or if such a decision had been put to the vote in the Council but not adopted. With respect to other crimes within the jurisdiction of the Court, it would be acceptable if the Security Council had the power to decide on a temporary suspension of proceedings in the Court. An essential preliminary condition for the Court's exercise of its jurisdiction was acknowledgement of its competence by the State with jurisdiction over the suspect. However, that should not apply to cases referred to the Court by the Security Council.

40. The Prosecutor could be given powers to initiate proceedings *proprio motu*, subject to the provisions of the Statute as a whole and based on the principle of complementarity and the absence of any exclusive jurisdiction by the Court with respect to any category of crimes. She therefore proposed the possibility of reservations to that provision of the Statute. However, reservations should refer only to the trigger mechanism and the substantive jurisdiction of the Court, and their number should be strictly limited.

41. She was convinced that the effectiveness, stability and universality of the Court could be attained only if its activities were financed from the regular budget of the United Nations.

42. **Ms. KLEOPAS** (Cyprus) said that the establishment of a permanent international criminal court was an absolute necessity. She aligned herself with the statement made by the European Union Presidency.

43. If the Court was to be effective and able to dispense justice, it must have an independent Prosecutor empowered to act *proprio motu*.

44. The list of crimes over which the Court should have jurisdiction should include all crimes of international concern: genocide, aggression, war crimes and crimes against humanity. Failure to include aggression would deprive the Court of one of its primary functions, and would also discriminate against victims. War crimes should be defined as including the establishment of settlers in an occupied territory, changes to the demographic

composition of an occupied territory, and the deportation or transfer of all or parts of the population of the occupied territory within or outside that territory. The destruction of cultural sites should also be considered as a war crime.

45. **Mr. AL-KHALIFA** (Bahrain) said that the purpose of establishing an international criminal court was to act as a deterrent against the commission of war crimes during armed conflict. The ad hoc Tribunals had provided models for such a criminal justice regime.

46. In order to respect national sovereignty, the jurisdiction of a permanent and independent international criminal court should be complementary to national jurisdiction, and should encompass genocide, aggression, war crimes and crimes against humanity. The elements of those crimes should be defined very precisely, to satisfy the principle of *nullum crimen sine lege*.

47. The Court should be independent and free from any political interference that would affect its impartiality or hamper its work. For the exercise of the mandate, the Prosecutor, whose action should be subject to precise legal rules, should be empowered to initiate proceedings on the basis of complaints by States or a decision of the Security Council. The Court should have the power to award compensation to victims as well as to pass sentence on those convicted. The word "extradition" should be retained, rather than "transfer" or "remand", because it had an established legal sense in international customary law and was accepted by all national constitutions and laws.

48. Reservations to the Statute should not be permitted. It should be left to the general rules of the law of treaties to guarantee the greatest possible number of accessions to the Statute.

49. **Mr. NZE** (Congo) said that, in view of large-scale human rights violations, it was necessary to establish an international criminal court, so that those who committed such crimes would not go unpunished. The jurisdiction of the Court should also extend to acts such as terrorism.

50. The Court should be available to States parties and the Security Council. It should also be empowered to act on its own initiative, but only if it was independent of political influence.

51. The independence of the Court should be guaranteed in its Statute, and must be respected by the Security Council and States, in order that the judges could perform their duties in complete impartiality while ensuring due respect for the rights of the defence. To avoid the delays characteristic of international courts, the Court should enjoy financial autonomy. It should also provide compensation to victims.

52. **Mr. ERVEDOSA ABREU** (Angola) said that, in keeping with the statement made on behalf of SADC, he supported the establishment of an international criminal court to prosecute grave crimes of concern to the international community.

53. An international criminal court should not have fewer guarantees of independence and impartiality than a national court in determining what crimes and criminals it would try. In no case, therefore, should the initiation of judicial action be subject to a veto or a decision of the Security Council or to the will or interests of States where the crimes were committed or whose nationals were the accused.

54. Similarly, the Prosecutor's freedom to investigate crimes or institute prosecutions should not be limited. States must cooperate with the Prosecutor and not impede his work.

55. It should be possible, despite the concerns expressed by certain countries, to find ways of guaranteeing respect for the rights of the accused to defence, avoid abuses and ensure that unfounded accusations did not reach the trial stage.

56. He supported the inclusion of aggression within the Court's jurisdiction.

57. Since his country's Constitution prohibited capital punishment, he could not agree to the inclusion of the death penalty in the Statute.

58. **Mr. NYABENDA** (Burundi) said that his country had suffered for almost five years from genocide and attacks by bands of terrorists against innocent people; he requested that an ad hoc international criminal tribunal should be set up for Burundi in order to help in national reconciliation efforts.

59. He welcomed the plan to establish a permanent international criminal court, which should be independent, strong and impartial, and linked with the United Nations through a special agreement to guarantee its universality and authority. It should be created by means of a treaty. Burundi favoured complementarity between the Court and national courts, which should retain the primary responsibility for investigating and prosecuting crimes.

60. The Court should be competent to deal with the crimes specified in article 5 of the draft Statute. No State should be entitled to refuse recognition of the Court's competence. The Court itself should determine its power of intervention.

61. **Mr. LARREA DAVILA** (Ecuador) said that the Court should be established in accordance with the purposes and principles of the United Nations and international law. Its independence, effectiveness, universality, impartiality and permanence should be guaranteed in order to protect the basic values of the civilized world community.

62. The Court should have broad jurisdiction over crimes such as genocide, war crimes, crimes against humanity, violations of human rights and crimes of aggression, if consensus could be reached on a definition of the latter, and also over crimes committed during internal armed conflicts and crimes against humanity committed in times of peace. The Statute should be open to the future inclusion of other crimes of universal concern. The Court should have universal jurisdiction, and signature of the Statute should imply acceptance of its jurisdiction, which would be complementary to that of national legal systems. The Court should be empowered to intervene when it was determined that national legal systems had not been able to carry out their primary responsibility.

63. The Court should be free from interference by any political body, thus guaranteeing impartiality in prosecution and adjudication. It should also have a strong and independent Prosecutor empowered to initiate judicial proceedings ex officio. All Member States should undertake to fulfil the provisions and orders of the Court at all stages of the process without delay.

64. The Court would enjoy greater legitimacy if it could not impose the death penalty. It should fully observe the principles of international criminal law, including non-retroactivity, *in dubio pro reo*, *nullum crimen nulla poena sine lege*, *ne bis in idem*, and, finally, the guarantee of due process.

65. **Mr. NKGOWE** (Botswana) said that the establishment of an international criminal court was long overdue. It should be the purpose of the Court to deter all those who harboured the intention of committing genocide, war

crimes and crimes against humanity, or to hold those who committed such crimes individually accountable for their deeds. The plea of acting under superior orders could no longer be accepted.

66. There was agreement that the Court should be independent, impartial, fair, just and effective and that it should complement national courts; nevertheless, some questions remained, for instance, regarding the role of the Security Council. The Council was the first port of call in international crises and should be allowed to refer cases to the Court. Any State or Member of the Security Council should also be able to refer cases before it to the Court, and the veto should not be applicable. By the same token, the Prosecutor should have a mandate to initiate action, for example, where the national courts were not in a position to bring the perpetrators of serious crimes to justice.

67. **Mr. NOVELLA** (Monaco) said that, in keeping with his country's long-standing involvement in international humanitarian efforts, including the establishment of a precursor to the League of Nations and groundwork for international Red Cross conventions, his delegation wished to participate in the establishment of the Court and to work for the punishment of international crimes.

68. **Mr. KIRABOKYAMARIA** (Uganda) said that a permanent, independent, transparent and effective international criminal court should be established, with unfettered jurisdiction over crimes such as genocide, war crimes, crimes against humanity and aggression, without any distinction between war crimes committed in international and internal conflicts.

69. The Court could not and should not replace the various national judicial systems. It should play only a complementary role. On the other hand, the role of the Security Council under Chapter VII of the Charter should not be allowed to influence the acceptability and independence of the Court.

70. He agreed with those delegations and NGOs that advocated adequate and effective provisions in the Statute for safeguarding children. The prosecution of abduction, rape, enslavement and other forms of child abuse should be prominently reflected in the Statute. Gender concerns should also be taken into account.

71. Any individual, State, non-governmental organization or the Prosecutor, acting ex officio, should be allowed to initiate action without undue pre-qualifications. He strongly opposed the admissibility of reservations to the Statute and did not support the "opt-in/opt-out" approach.

72. In the past, arch-criminals had enjoyed impunity as a result of the lack of international criminal jurisdiction. He hoped that, through the Court's work, there would be no place where such criminals could hide.

73. He welcomed the Netherlands offer to host the ICC headquarters at The Hague.

74. **Ms. GARAVAGLIA** (Observer for the International Federation of Societies of the Red Cross and the Red Crescent) said that, in November 1998, the 175 national societies of the Red Cross and the Red Crescent, the International Federation and the International Committee of the Red Cross (ICRC) had adopted a resolution calling on national societies to promote the establishment of an effective and impartial international criminal court. The 120 million volunteers of the Red Cross and Red Crescent were waiting for a strong political message on the prevention and punishment of violations of international humanitarian law. They should not be disappointed. The establishment of a court meeting the legitimate demands of international justice was within reach.

75. **Mr. SUAREZ GIL** (Observer for the Latin American Institute for Legal Services) welcomed the opportunity to engage in a dialogue with a view to establishing an independent, impartial and permanent international criminal

court. The murders of colleagues, which had taken place in internal political conflicts, were often not recognized by Governments or were recognized only belatedly. According to the first annual report of the Office of the United Nations High Commissioner for Human Rights, activity by paramilitary groups, displacement of thousands of people and persecution of defenders of human rights were on the increase. Punishing such crimes in cases where domestic judicial systems had no capacity to do so called for a court that had inherent jurisdiction over violations that occurred in internal armed conflicts.

76. The Statute should clearly state that the enforced disappearance of persons should fall within the jurisdiction of the Court. Some countries had attempted to modernize criminal justice by establishing non-adversarial proceedings, which were marred by the use of such devices as so-called anonymous judges, who did not respect guarantees of impartiality or due process. In many cases, witnesses, victims, family members and their representatives at trials were persecuted. The future Court should provide protection for such persons.

77. **Mr. DORSEN** (Observer for the Committee of Lawyers for Human Rights) said that his Committee had worked for many years to end impunity for the most heinous international crimes. The Conference had the opportunity to create a court that would prosecute international crimes when national systems were unable or unwilling to do so. An effective court would deter gross human rights violators, by confronting them with the real risk of punishment. When national courts could not provide it, the Court could offer redress to victims, protection for women, children and witnesses of international crimes. It would strengthen peace, by offering justice through law and would contribute to the process of reconciliation.

78. The community of nations had a fundamental interest in contributing to a more stable world by creating an international criminal court that was independent, effective and fair. Indeed, a court without those features would have no deterrent effect. An independent, effective and fair court must be perceived to be a judicial body guided by legal rather than political considerations. Its jurisdiction should be limited to the three core crimes of genocide, crimes against humanity and serious war crimes, unless agreement on the definition of other crimes could be reached.

79. The Security Council should not be able to control the Court proceedings; accordingly, the Prosecutor must be permitted, subject to appropriate safeguards, to initiate investigations *proprio motu*. The Court must be empowered to exercise its jurisdiction without the need to obtain State consent before it could proceed. It must adhere to the highest international standards of fair trial and due process. States parties must be obliged to cooperate fully with the Court and to comply with its orders and decisions. The Court should be financed out of the United Nations regular budget.

80. Judicial independence and judicial oversight of the Prosecutor and judges, who would be of the highest impartiality, integrity and professional competence, would safeguard against the danger that an independent court could become a forum for politically motivated prosecutions. Perhaps the most important safeguard was the basic principle of complementarity. The Court would act only when there was no national judicial system willing and able to prosecute and investigate.

81. **Ms. SAJOR** (Observer for the Women's Asian Centre for Human Rights) said that a permanent international criminal court whose aim it was to promote universal justice effectively must incorporate gender perspectives in all aspects of its jurisdiction, structure and operations. The Court must be fully accessible, through an independent Prosecutor, to complaints from women survivors; its creation was an essential step in ending the cycle of violence against women in war and armed conflict.

82. Though rape had been clearly listed as a war crime since the end of the First World War, women had to struggle to have the crime of rape listed in the Statutes of the Tribunals for the Former Yugoslavia and Rwanda and to have resources devoted to the investigation of such crimes when those Tribunals were created. The Conference must ensure that the results of its deliberations would not be yet another setback for women victims of wars and crimes against humanity.

83. The Statute of the ICC must reflect the present state of international law. Rape, sexual slavery, enforced prostitution, enforced pregnancy, mass rape and other forms of sexual and gender-based persecution must be specifically listed as war crimes, crimes against humanity and grave breaches of the human rights of women.

84. **Ms. STOBIECKA** (Observer for the Association of European Students) said that the Court must be able, without influence from any political body, to prosecute and punish perpetrators of genocide, crimes against humanity, war crimes and aggression.

85. The independent Prosecutor should be able to commence investigations ex officio. It would be meaningless to create a permanent international criminal court with less power than the domestic tribunals of States parties.

86. Justice for victims of gross violations of international humanitarian law and human rights could be achieved only when victims had access to justice in three areas: the right to know the truth, the right to a fair trial, and the right to reparation. The underlying legal principle was that, where a wrong existed, there must be a corresponding judicial remedy, as stated in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Articles 68 and 73 of the draft Statute were central to justice for victims of atrocities occurring in times of war or times of peace.

87. **Mr. CORELL** (Representative of the Secretary-General) said that the protected status of United Nations signs, emblems and military uniforms, first recognized in Additional Protocol I to the Geneva Conventions, had proved to be both justified and necessary in the practice of peacekeeping operations. The Secretariat strongly supported the idea that the Conference should take a step further in order to criminalize and qualify as a war crime the improper use of the flag, military insignia and uniform of the United Nations by any of the parties to a conflict, when such use resulted in death or serious personal injury.

88. Attacks against United Nations and associated personnel were criminalized under the 1994 Convention on the Safety of United Nations and Associated Personnel, but it was left for the national jurisdiction of each State party to prosecute or extradite. Such crimes should fall within the jurisdiction of the Court. However, making the criminalization of attacks against United Nations personnel conditional on their systematic character and large-scale occurrence would be inconsistent with the definition of the crime established in the 1994 Convention, and hardly ever appropriate in the circumstances of peacekeeping.

89. As an organization whose peacekeeping, humanitarian and similar field operations were deployed in areas of conflict, the United Nations would almost certainly be in possession of first-hand information which could significantly assist the Court in determining the individual criminal responsibility of accused persons. The nature, scope and modalities of United Nations cooperation with the Court in providing oral testimonies or documents would have to be agreed upon between the Organization and the Court. The United Nations, for its part, would be guided by the practice of cooperation with the two ad hoc International Tribunals for the Former Yugoslavia and for Rwanda.

90. Consequently, the United Nations would cooperate with any proper international criminal court, whether a tribunal of the kind established for the former Yugoslavia and Rwanda whose orders and requests were binding under Chapter VII of the Charter, or a treaty-based Court whose requests must be complied with by the United Nations on the basis of mutually agreed procedures.

91. The United Nations Secretariat understood that cooperation embraced all stages of the legal process, from the investigation to the trial phase, and all organs of the Court, including the defence, which, while not strictly speaking an organ of the Court, was nevertheless an indispensable element in the administration of justice.

92. An agreement between the United Nations and the Court as foreseen in the draft Statute would be subject to approval by the General Assembly. The following principles would guide the United Nations Secretariat in negotiating such an agreement.

93. The principles of the 1946 Convention on the Privileges and Immunities of the United Nations should also apply in relation to the Court. Accordingly, when requested to waive the immunity of any of its officials in order to enable them to appear in court, or when requested to disclose any information which had not yet been made public, the Secretary-General would balance the need to cooperate with the Court with the protection of the internationally recognized interests of the United Nations. The Secretary-General would consider the relevance and specificity of the request for information, the gravity of the charge under consideration, the confidentiality of the documents requested, the risk that their disclosure might entail for the safety of United Nations staff and the interests of the Organization, and whether, in such a case, sufficient guarantees and protective measures could be provided.

94. The notion of the confidentiality of documents and information in the United Nations context needed clarification. Where a request for disclosure of documents entailed an examination of deliberations of closed meetings of the Security Council, United Nations records of meetings with representatives of Member States, including troop-contributing States, a decision to permit such an examination of the activities of the Security Council and individual Member States would raise serious questions equivalent to the national security of States. Any provision in the Statute for the protection of sensitive national security information should, therefore, be made applicable to the United Nations *mutatis mutandis*.

95. In that context, he drew the attention of the Conference to the communication from the Inter-Agency Standing Committee, which appeared in document A/CONF.183/INF.4. Ultimately, of course, it was for Member States to strike the appropriate balance between the competing interests.

96. In conclusion, he said that while it was clear that there was not agreement on some issues, what was more important was the true sense of commitment towards fulfilling the mandate of the Conference, namely, to finalize and adopt a convention on the establishment of an international criminal court. The debate conveyed a message of confidence and determination and a clear sense of responsibility. The Secretariat would do its utmost to support the Conference.

APPOINTMENT OF THE CREDENTIALS COMMITTEE (*continued*)

97. The **PRESIDENT** said that, since Barbados and Bhutan were unable to serve on the Committee, two new members must be elected. It was his understanding that, following informal consultations between the Groups, Dominica and Nepal had been nominated to fill the vacancies. He asked whether the Conference wished to approve those nominations.

98. *It was so decided.*

The meeting rose at 6.20 p.m.

UNITED NATIONS

United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court

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SUMMARY RECORD OF THE 9th PLENARY MEETING

Held at the Headquarters of the Food and Agriculture Organization of the United Nations on Friday, 17 July 1998, at 10.30 p.m.

President: Mr. CONSO (Italy)

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The meeting was called to order at 10.35 p.m.

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REPORT OF THE CREDENTIALS COMMITTEE (A/CONF.183/L.7 and Corr.1 and 2)

1. **Ms. BENJAMIN** (Dominica), speaking as Chairman of the Credentials Committee, introduced the report contained in document A/CONF.183/L.7 and Corr.1 and 2, which should not require any further explanation since it was based on United Nations practice. The Committee recommended that the Conference adopt the report, including the draft resolution contained in paragraph 15.

2. **The PRESIDENT** asked the Conference if it wished to adopt the report of the Credentials Committee.

3. *It was so decided.*

CONSIDERATION OF THE QUESTION CONCERNING THE FINALIZATION AND ADOPTION OF A CONVENTION ON THE ESTABLISHMENT OF AN INTERNATIONAL CRIMINAL COURT IN ACCORDANCE WITH GENERAL ASSEMBLY RESOLUTIONS 51/207 OF 17 DECEMBER 1996 AND 52/160 OF 15 DECEMBER 1997 (*continued*) (A/CONF.183/8; A/CONF.183/C.1/L.92 and Corr.1)

4. **Mr. KIRSCH** (Canada), speaking as Chairman of the Committee of the Whole, introduced document A/CONF.183/C.1/L.92 and Corr.1 and said that the Committee had completed the mandate entrusted to it by the Conference and had adopted the draft Statute of an international criminal court. The Report of the Committee of the Whole was composed of three chapters. Chapter 1 described the proceedings of the Committee of the Whole relating to the various parts and articles referred to it by the Plenary, Chapter 2 contained the complete text of the draft Statute for the Court and the Final Act of the Conference, and Chapter 3 contained a list of the written proposals and working papers submitted to the Committee of the Whole and its Working Groups.

5. He commended to the Plenary, for consideration and adoption, the draft Statute for the Court and the Final Act of the Conference contained in the Report of the Committee of the Whole.

6. **The PRESIDENT** asked the Conference if it wished to take note of the Report of the Committee of the Whole contained in document A/CONF.183/C.1/L.92 and Corr.1.

7. *It was so decided.*

ADOPTION OF A CONVENTION AND OTHER INSTRUMENTS DEEMED APPROPRIATE AND OF THE FINAL ACT OF THE CONFERENCE (A/CONF.183/8)

8. **Mr. SCHEFFER** (United States of America) asked for a vote on the adoption of the Statute as a whole, in accordance with rule 36 of the rules of procedure. He was not asking for a recorded vote.

9. **The PRESIDENT** invited the Conference to vote on the adoption of the Statute for the Court.

10. *The Statute was adopted by 120 votes to 7, with 21 abstentions.*

11. **Mr. LAHIRI** (India) said that he had always had in mind a court that would deal with truly exceptional situations, where the State machinery had collapsed. However, the scope of the Statute had been so broadened that it could be misused for political purposes or to address situations for which the ICC was not intended.

12. His fundamental objections to the Statute were that it gave the Security Council a role in terms that violated international law. It had been argued that a role for the Council must be built into the Statute because it had set up ad hoc tribunals, but the Charter did not give the Council the power to set up courts. What the Council had received through the Statute was the power to refer, the power to block proceedings and the power to bind non-States parties. All three were undesirable.

13. The power to refer was unnecessary. The Council had set up ad hoc tribunals because no appropriate judicial mechanism had existed to try such crimes at the time, but, with the establishment of the ICC, States parties would have the right to refer cases to it. The Council did not need to refer cases, unless its referrals would be more binding on the Court than other referrals, which would clearly be an attempt to influence justice. Furthermore, members of the Council that did not plan to accede to the ICC would have the privilege of referring cases to it. That, too, was unacceptable.

14. The power to block proceedings was even harder to accept. On the one hand, it was argued that the ICC was to try crimes of the gravest magnitude, yet, on the other, it was argued that the maintenance of international peace and security might require that those who had committed such crimes should be permitted to escape justice, if the Council so decreed.

15. Under the Law of Treaties, no State could be forced to accede to a treaty or to be bound by the provisions of a treaty it had not accepted. The Statute violated that fundamental principle. The Council would almost certainly have among its members some non-parties and such States, working through the Council, would be given the power to bind other non-parties. Moreover, the inclusion in the Statute of the concept of universal or inherent jurisdiction made a mockery of the distinction between States parties and non-parties, thus straying sharply from established international law.

16. The Statute had not explicitly banned the use of nuclear weapons as a crime. As a nuclear weapon State, India had tabled a draft amendment to list nuclear weapons among those whose use was banned for the purposes of the ICC Statute. To his very great regret, that had not even been considered, and the Statute did not list any weapons of mass destruction among those whose use was banned as a war crime.

17. For those fundamental reasons of principle, with very great regret, the Government of India would not be able to sign the ICC Statute.

18. **Mr. PAOLILLO NUÑEZ** (Uruguay) said that he had voted in favour of the Statute, not to give unconditional support to a text which, like all compromise texts, was not completely satisfactory, but rather as a renewed manifestation of his country's will to contribute to the development and strengthening of international law, through the establishment of judicial institutions.

19. Various issues in the Statute, particularly regarding admissibility, had not been resolved in a completely satisfactory manner. In addition, the powers given to the Prosecutor had not been made subject to adequate controls, which might have the opposite effect to that desired. In other areas the Conference had not had sufficient time to elaborate more satisfactory solutions, but he had voted in favour of the Statute because it marked a historic step closer to the ideal of a more just and free international society.

20. **Mr. PEEROO** (Mauritius) said that the achievements of the Conference should not be underestimated. Laying the foundation of international criminal law had meant, at one and the same time, inventing international criminal law, setting out international criminal procedure, creating international criminal institutions and defining

international criminal offences. He was happy to have played a part in such an ambitious enterprise and announced that Mauritius would sign the Statute.

21. **Mr. EBDALIN** (Philippines) said that the Statute contained the vital elements of an international criminal court, with jurisdiction over genocide, crimes against humanity and war crimes, gender-based and sex-related crimes and acts committed in non-international armed conflicts. The Prosecutor could initiate proceedings *proprio motu*, independently of the Security Council.

22. The restrictions on admissibility had been reduced to an acceptable minimum. The principle of complementarity was assured, giving due regard to the national jurisdiction and sovereignty of States parties. Finally, there were provisions for restitution, compensation and rehabilitation for victims.

23. On the other hand, some provisions detracted from those strengths. Some new definitions of war crimes constituted a retrograde step in the development of international law. The applicability of the aggression provisions had been postponed pending specific definition of the crime, and States parties had the option of reservations on the applicability of war crimes provisions. Finally, the Security Council could seek deferral of prosecution for a one-year period, renewable for an apparently unlimited number of times.

24. Nevertheless, he was confident that the Court could succeed with the support of the international community and had therefore decided to vote in favour of the draft Statute.

25. **Mr. FIFE** (Norway) fully supported the establishment of the Statute of the Court. It was a compromise solution, elements of which did not reflect fully his position. Nevertheless, it would achieve the shared objective of creating a truly independent and effective Court, credible in the eyes of the world and enjoying the broadest possible support. His country would undertake the necessary national preparations to adopt the Statute.

26. **Mr. ONKELINX** (Belgium) said he had voted in favour of the Statute of the Court. While he was happy at the consensus achieved, he had some concerns at the results. In particular, Belgium would watch closely the application of the provisions of article 12, paragraph 2, because they were not in keeping with its consistently held conception of the automatic competence of the Court.

27. Secondly, articles 1 and 11 *bis* constituted a disturbing juridical construct, which would be limited by time constraints. His comments in no way detracted from his country's willingness to contribute actively to setting up the Court.

28. **Mr. SCHEFFER** (United States of America) said that he did not accept the concept of universal jurisdiction as reflected in the Statute, or the application of the treaty to non-parties, their nationals or officials, or to acts committed on their territories. The only way to bring non-parties within the scope of the regime was through the mandatory powers of the Security Council under the Charter. For those reasons he had voted against the Statute.
29. The Statute envisaged including aggression as a crime, once there was an amendment "defining the crime and setting out the conditions under which the Court shall exercise jurisdiction with respect to this crime", with the proviso that such amendment should be "consistent with the relevant provisions of the Charter of the United Nations". It must be taken into account that not all acts of aggression entailed individual criminal responsibility, and any definition must clearly state what acts, under what circumstances, constituted crimes. Such a definition must also clearly refer to the Security Council's exclusive role under the Charter to determine that aggression had taken place, as a pre-condition to the exercise of the judicial authority of the ICC.

30. With respect to article 16, it was unwise as a matter of policy, and questionable as a matter of law, to purport to specify that Security Council action was effective only for a limited period of time such as twelve months. The Council had the primary responsibility for the maintenance of international peace and security, and the Conference should not seek to constrain the activities of the Council under the Charter.

31. He could not support resolution E in annex I to the Final Act, because it seemed to reflect the view that crimes of terrorism and drug crimes should necessarily be included within the jurisdiction of the Court, subject only to the question of defining them. Conferring such jurisdiction on the Court might hamper essential transnational efforts at effectively fighting such crimes.

32. **Mr. VERGNE SABOIA** (Brazil) said that he had voted in favour of the Statute because he strongly supported the establishment of an international criminal court. However, he expressed concern that article 89 regarding the obligation to surrender persons to the Court might not be compatible with the provision of the Brazilian Constitution that prohibited the extradition of nationals. As regards article 77, paragraph 1 (b), the Brazilian Constitution prohibited the penalty of life imprisonment. He understood, however, that the provision contained in article 110, paragraph 3, concerning review of sentences after 25 years of imprisonment met that concern to some extent.

33. **Mr. NATHAN** (Israel) said that, although his country had long called for the establishment of an international criminal court as a vital means of ensuring that criminals who committed heinous crimes, such as the holocaust, would be brought to justice, he had reluctantly voted against the Statute. His country had actively participated in the preparation of the Statute at all stages, not imagining that it would ultimately become a potential tool in the Middle East conflict.

34. Article 1 of the Statute clearly referred to "the most serious crimes of concern to the international community as a whole". The preamble spoke of "unimaginable atrocities", and of "grave crimes which deeply shocked the conscience of the whole international community". He questioned whether it could really be held that the action referred to in article 8, paragraph 2 (b) (viii), ranked among the most heinous and serious war crimes. Had that provision not been included, he would have been able to vote in favour of adopting the Statute.

35. **Mr. DE SARAM** (Sri Lanka) said that he had abstained because, while recognizing the great importance of establishing an international criminal court, he was concerned that the Statute moved into areas of international law that were still unclear. That concern included extending the jurisdiction of the Court in relation to national jurisdictions, without national consent and, on occasion, in a manner inconsistent with the law of treaties. In particular, he regretted that the crime of terrorism had not been included within the jurisdiction of the Court.

36. **Mr. LIU Daqun** (China) said that his delegation had always held that the ICC should be judicially independent, but that, at the same time, care must be taken to ensure that investigations did not affect the legitimate interests and sovereignty of national judicial systems. The Statute did not entirely resolve his concerns in that regard.

37. Complementarity and State consent should be the legal basis of the Court's jurisdiction. However, the Statute granted universal jurisdiction to the Court over three core crimes, although article 12 had provided that, in exercising its jurisdiction, the Court should obtain the consent of the State where the crime was committed or of which the accused was a national. However, that did not mean that consent by a State was a sine qua non of the Court's jurisdiction. That imposed an obligation upon non-parties and constituted interference in the judicial independence or sovereignty of States, which he could not accept.

38. The definition of war crimes and crimes against humanity had already exceeded commonly understood and accepted customary law. He opposed the inclusion of non-international armed conflicts in the jurisdiction of the Court and the reference to crimes against humanity.

39. The Prosecutor's right to conduct investigations or to prosecute *proprio motu*, without sufficient checks and balances against frivolous prosecution, was tantamount to the right to judge and rule on State conduct. The provision that the Pre-Trial Chamber must consent to the investigation by the Prosecutor was not a sufficient restraining mechanism.

40. The formulation and adoption of the Statute had been based on democracy, equality and transparency and it should have been adopted on the basis of consensus, not of voting. The history of negotiating international treaties had proved that no convention adopted by a vote would be assured of universal participation. For those reasons, he had been obliged to vote against the Statute.

41. **Mr. GÜNEY** (Turkey) said that although Turkey had always supported the creation of an international criminal court, the final outcome was not in keeping with its expectations. Terrorism should have been included among crimes against humanity, often being the root cause of such crimes.

42. The Court's jurisdiction should be subject to the explicit consent of States or to an "opt-in/opt-out" mechanism. The executive exercise of jurisdiction and the gravity of the crimes within the Court's jurisdiction would fully justify requiring such explicit consent.

43. Subparagraphs (c) and (d) of article 8 on war crimes were not satisfactory. The Court should have competence to take cognizance of war crimes only in the context of policies, or as part of a series of analogous large-scale crimes. The future Court should have nothing to do with internal troubles, including measures designed to maintain national security or root out terrorism.

44. Conferring a *proprio motu* role on the Prosecutor risked submerging him with information concerning charges of a political, rather than a juridical nature. To make the Statute universal and effective, reservations should at least have been permitted on certain articles on which the Conference was deeply divided. For those reasons, Turkey had been unable to approve the Statute and had found itself obliged to abstain.

45. **Mr. YEE** (Singapore) said that, to be effective, a good Court must be built upon strong foundations, commanding universal respect and acceptance.

46. The final text of the Statute seemed to reflect the result of negotiations in which many small States were not involved, resulting in a series of compromises, mostly appearing at the eleventh hour, which weakened the institutional framework of the Court.

47. There were already signs that expediency rather than faithful adherence to core principles of criminal justice was governing issues such as the composition of the Court and the trial process. The provisions on the acceptance of jurisdiction and the preconditions for its exercise had appeared for the first time at the very end of the Conference, rendering full study of all the implications impossible for his delegation.

48. He was dismayed that chemical and biological weapons had been deleted from the list of prohibited weapons in the definition of war crimes. He wondered what signals would be sent out by failing to qualify the use of such weapons as war crimes.

49. He regretted the non-inclusion of the death penalty, because of the ambiguous message which its absence sent in relation to the gravity of the crimes within the Court's jurisdiction, especially in parts of the world where the deprivation of liberty was not a sufficient deterrent. The decision not to include the death penalty in the Statute did not in any way affect the sovereign right of States to determine appropriate legal measures and penalties to combat serious crimes effectively.

50. For those reasons, he had abstained in the vote.

51. **Sir Franklin BERMAN** (United Kingdom) said that the United Kingdom interpreted the reference to aggression in article 5 and, in particular, the last sentence of paragraph 2 of that article, which mentioned the Charter, as a reference to the requirement of prior determination by the Security Council that an act of aggression had occurred.

52. Resolution E on drug trafficking and terrorism, which had been included in deference to the arguments of some delegations, did not, however, prejudge in any form a decision to be taken in due course within the review procedure as to whether either terrorism or drug trafficking should be included within the jurisdiction of the Court.

53. **The PRESIDENT** read out the following declaration concerning a new article 80 *bis*, on the non-inclusion of the death sentence in the Statute:

> "The debate at this Conference on the issue of which penalties should be applied by the Court has shown that there is no international consensus on the inclusion or non-inclusion of the death penalty. However, in accordance with the principles of complementarity between the Court and national jurisdictions, national justice systems have the primary responsibility for investigating, prosecuting and punishing individuals, in accordance with their national laws, for crimes falling under the jurisdiction of the International Criminal Court. In this regard, the Court would clearly not be able to affect national policies in this field. It should be noted that not including the death penalty in the Statute would not in any way have a legal bearing on national legislations and practices with regard to the death penalty. Nor shall it be considered as influencing, in the development of customary international law or in any other way, the legality of penalties imposed by national systems for serious crimes."

54. In the final text, the relevant articles would be renumbered appropriately.

SIGNATURE OF THE FINAL ACT AND OF THE CONVENTION AND OTHER INSTRUMENTS

55. *Signature of the final document commenced with Zimbabwe, drawn by lot.*

GENERAL STATEMENTS

56. **Mr. CORELL** (Representative of the Secretary-General) said that he was honoured to convey to the Conference the Secretary-General's congratulations on its great achievement. He thanked all participants for their efforts.

57. The Statute which had just been created would fill what had long been recognized as a gap in the international legal system. The Conference had deliberated with great care and patience, and had successfully resolved questions that had posed a challenge to the United Nations for over fifty years.

58. No doubt many would have liked to see the Court vested with even more far-reaching powers. The breakthrough achieved should not be underestimated, but should be recognized as a genuine step forward in safeguarding human rights and the rule of law. It was now for States to sign and ratify, or accede to, the Statute, and he hoped that in the next few months there would be a concerted movement of support for the Court as soon as the necessary constitutional requirements were fulfilled at national level.

59. He paid tribute to the very important contribution made to the negotiating process by the intergovernmental organizations and, in particular, the non-governmental organizations.

60. **Mr. VATTANI** (Italy) said that Italy, as host to the Conference, was particularly pleased to welcome the creation of the Statute, an event of historic importance and a decisive step forward in the development of international criminal law and in the prevention and punishment of crimes which were an offence to the conscience of mankind. The text adopted would provide a satisfactory basis for the Court's operations by guaranteeing its independence, an essential requirement for any judicial body. He was glad to note that its jurisdiction would include aggression and endangerment of the lives of women and children, notably in armed conflicts. He hoped that with the cooperation of all States parties, the Court would eventually become an efficient universal instrument, thus fulfilling the hopes placed in it by the international community.

61. **Mr. HAFNER** (Austria), speaking on behalf of the European Union and of Bosnia and Herzegovina, Hungary, Iceland and Norway, said that the European Union had always been committed to the creation of a permanent judicial institution which would make the world a more just, safer and more peaceful place, and had always affirmed that the Statute of the Court must be generally acceptable if it was to become effective. A number of extremely sensitive issues related to national criminal jurisdiction, national security and sovereignty had been resolved at the Conference, and concessions had been made on all sides to enable an acceptable result to be reached. The success achieved was an event of historic importance.

62. Work had still to be done within the Preparatory Commission, and a sufficient number of ratifications had to be received before the Court could begin work. The European Union was ready to do all it could to ensure that that task was successfully accomplished.

63. **Mr. RODRIGUEZ CEDEÑO** (Venezuela) said that, although the Statute now being adopted was not perfect, it was a balanced one, which responded to the concerns of the international community as a whole.

64. His delegation wished to place on record that the Constitution of Venezuela prohibited the death penalty, and that, although it had accepted the provision on the subject contained in article 77 (Applicable penalties), it had done so out of a desire to achieve consensus and on the understanding that in considering whether to apply the death penalty, the gravity of the crime, as well as any future review of the applicability of the death penalty, must be taken into account.

65. **Mr. GONZALEZ GALVEZ** (Mexico) said that Mexico believed that the creation of a permanent, independent international criminal court was essential in order to provide a legal framework which would eliminate impunity for the authors of serious international crimes. The package just approved offered a good basis for pursuing that objective, although it was clear that much more work would have to be done before it could be considered as a consensus document. His delegation had therefore abstained in the vote just taken.

66. Though consultations should have continued until a genuine consensus text had emerged, the Statute did include an adequate amendment mechanism. He regretted the inclusion of a clause prohibiting reservations. Contrary to some arguments, the entering of reservations would enable countries to commit themselves to the objectives of the Court without violating their national legislation, and would not invalidate the content of the Statute or detract from the responsibilities and obligations assumed by States parties.

67. Specifically, his delegation declared its reservation regarding the deletion of nuclear weapons from the list of prohibited weapons and stated that it intended to raise that issue again when a review conference was convened. In addition, Mexico did not understand the need for a further revision of article 8, subparagraph (a), relating to breaches of the Geneva Conventions of 1949, and rejected as inadequate the introductory paragraph of subparagraph (b): as a result, it might be obliged to avail itself of the option provided for in article 111 *bis* when the time came for signature. While his delegation fully accepted the commitments contained in subparagraphs (c) and (d), it could not agree to language that had been drafted in undue haste. Further specific reservations by his delegation pertained to the definition of crimes within the jurisdiction of the Court, which needed to be further developed, and to the powers given to the Court to override national law and authorize the kidnapping of Mexican citizens in order to bring them to trial in foreign countries.

68. In short, the package approved was a compromise one. He believed that the complexity of the subject required the greatest possible transparency in negotiations, and the debate in the plenary had shown that many concerns and differences of opinion remained. He wished to state that, if Mexico had taken part in the vote, it would have had to express reservations with regard to the role of the Security Council and the introductory wording of article 8 (b) on war crimes.

69. **Mr. SCHEFFER** (United States of America) said that all Governments represented at the Conference should act in partnership in the pursuit of international justice. Although his delegation was deeply disappointed that some of its fundamental concerns had not been addressed in the Statute, the United States would continue to play a leading role in fulfilling the common duty to bring to justice those guilty of the most heinous crimes. He commended the efforts of all those involved in the Conference, and hoped they would continue to work together in the future to meet the challenge of establishing international justice.

70. **Mr. PERAZA CHAPEAU** (Cuba) said that his delegation would have liked the Statute to have provided more vigorous measures to punish the perpetrators of genocide and other war crimes. Although it could concur in the adoption of the Statute in the constructive spirit it had shown throughout, it greatly regretted that nuclear weapons and other weapons of mass destruction had not been included among those weapons whose use would constitute a war crime. The subordination of the Court to the Security Council would also reduce the Court's independence and efficiency, and would attribute to the Council powers that the Charter did not confer on it.

71. Cuba was grateful to those delegations which had supported its proposal for the inclusion of economic blockades in the list of crimes against humanity listed in article 7. Its support for the Statute did not imply that it was giving up the right to continue to denounce the genocidal war waged against the Cuban people by an economic blockade. He was convinced that, sooner rather than later, justice would prevail.

72. **Mr. MAHARAJ** (Trinidad and Tobago) said that the flexibility shown by many delegations in order to avoid impeding the process of establishing the Statute was proof of the political will to create an international criminal court. His own country had shown flexibility by accepting the deferral of a decision on including in the jurisdiction of the Court offences related to drug trafficking of a transnational nature.

73. He greatly regretted that Trinidad and Tobago had found itself unable to sign the Statute, largely owing to the lack of consensus regarding the imposition of the death penalty on persons convicted of the most serious crimes. It considered that international law did not prohibit the death penalty, but on the contrary recognized the sovereign right of countries to determine whether or not to impose it. While his delegation was willing to sign the Final Act of the Conference, and would continue to work towards the establishment of an international criminal court, it believed that such a court could be effective only if it had wide support and membership. That wide support could not be achieved unless the Statute recognized the principles of international law and the legitimate concerns of States.

74. **Mr. ALHADI** (Sudan), speaking on behalf of the Arab Group, said that the Conference had created a historic document, the signing of which would be a moment of dignity for all humanity. He thanked the Italian Government and all those who had contributed to the establishment of the Court.

75. While the Arab States would not stand in the way of the adoption of the Statute, he felt bound to place on record that they were not convinced by what had been agreed upon. It was regrettable that the Statute included general expressions concerning the crime of aggression, and that it would be many years before the Court could exercise its jurisdiction in that field. The Arab States were afraid that the inclusion of non-international conflicts within the Statute would allow interference in the internal affairs of States on flimsy pretexts.

76. He would have preferred agreement by the international community on criminalizing the use or the threat of use of weapons of mass destruction, including nuclear weapons.

77. The Statute gave the Prosecutor, acting *proprio motu*, a role beyond the control of the Pre-Trial Chamber. The Prosecutor should be under reasonable and logical control, and should not act ex officio.

78. The Arab Group had expressed their fear that the Security Council might be granted powers that could affect the role of the ICC concerning any war criminal, regardless of country, religion, or nationality. The text adopted might increase the powers of the Council over and above those set out in Chapter VII of the Charter. Where the Council failed to shoulder its responsibilities, the General Assembly should have a role in punishing war criminals. The right to express reservations should also have been granted. The removal of that right by article 120 would be an obstacle to accession.

79. **Mr. DABOR** (Sierra Leone) said that he was happy to note that the Statute preserved jurisdiction over internal armed conflict and provided that the Prosecutor should have *proprio motu* powers. The Conference had achieved a delicate balance that would give the world community a fair and effective permanent court.

80. The success of the Statute would depend on cooperation between States, and he urged all States to maintain the momentum and ensure that the treaty came into force soon.

81. **Mr. OWADA** (Japan) said that, after adoption of the Statute, the goal must be to create and foster a court that could function effectively, on the basis of the total confidence of the international community. The task of the Conference had been to reconcile the need to create an objective regime of international justice and the need to construct a flexible system that would enable States to cooperate on a voluntary contractual basis.

82. Accordingly, Japan had sought to introduce under the Statute a transitional regime for the Court's jurisdiction to apply during the initial period, so that the confidence of States in the impartial and proper functioning of the

Court might be built up through experience. That idea, he was happy to see, had been incorporated in article 111 *bis* of the Statute. His delegation had also contributed to the success of the Conference in the area of financing the Court.

83. The true test of success would ultimately depend upon the cooperation of the international community in making the Court work effectively in practice. The firm political commitment demonstrated throughout the Conference must be further strengthened to secure the future of the Court.

84. **Mr. EL MASRY** (Egypt) said that his country had been among the first to call for the establishment of the ICC, because recent history was full of crimes whose perpetrators had gone unpunished. While he supported the text in general, there were some matters that the Statute did not deal with satisfactorily.

85. Nuclear weapons should have been included. He agreed with the statements made by the representative of the Sudan on behalf of the Arab Group, and of Lesotho, on behalf of the African Group. The adoption of article 8, paragraph 2 (b) (xx), meant that any future lists of prohibited arms annexed to the text should include weapons of mass destruction, particularly nuclear weapons.

86. He hoped that a definition of aggression, the basis of all crimes, would be found and emphasized that the General Assembly as well as the Security Council should be empowered to determine the existence of aggression.

87. He again stressed the need that the Statute should contain objective criteria of complementarity. The Prosecutor should not be able to initiate investigations ex officio, for practical and legal reasons. With regard to reservations, he hoped that States would be able to agree on a formula which did not affect the main purpose of the Convention.

88. He hoped that the approval of the Statute would mark a new beginning of a human society in which peace reigned, based on justice for all.

89. **Mr. SKELEMANI** (Botswana) said that, although imperfect, the Statute clearly expressed common values of justice, governing how the human race wanted to live in the future. He had supported the adoption of the Statute because it reflected the consensus of humanity as represented at the Conference.

90. Generations to come should be able to perfect the Statute, and he urged those who felt that the document fell short of their expectations to reflect further and resolve to improve it during the review process.

91. **Mr. BOUGUETAIA** (Algeria) fully subscribed to the statement made by Sudan on behalf of the Arab Group. Algeria had always been committed to the establishment of the Court. The text of the Statute met some, if not all, of his major concerns. He still had some regrets and some fears, but hoped that, with time, those fears would be overcome.

92. **Mr. SALAND** (Sweden) speaking on behalf of the Western European and Others Group, said that the historic adoption of the Statute of the Court marked the realization of an aspiration harboured by humankind for more than fifty years and held out promise of a better, safer and more just world.

93. **Mr. AYUB** (Pakistan) said that the establishment of the Court would, he hoped, act as an effective deterrent to the commission of heinous crimes. It was the duty of every State to see that the perpetrators of heinous crimes committed within its jurisdiction should not go unpunished. However, where there was a total breakdown of State

authority, the ICC should have jurisdiction to bring the offenders to justice. The ICC should, however, complement and not supplant national legal systems or impinge on the sovereignty of the State. However, certain provisions in the Statute were of serious concern to his delegation, as they tended to undermine the basic principle of complementarity.

94. It would also be a negation of the principle of sovereignty if a State's legal system were challenged on the ground that a trial conducted by it was a sham trial intended to protect or shield criminals. Article 89, dealing with provisional arrest, conflicted with the law of his country.

95. Only a State party, and not the Prosecutor *proprio motu*, should be competent to activate the trigger mechanism, as it alone could determine its competence to deal effectively with cases involving the crimes mentioned in article 5. He was not in favour of any role for the Security Council in relation to the Court, as the Council's influence on the ICC would not be conducive to the development of a non-discriminatory and non-selective uniform legal system.

96. It was also essential that reservations should be permitted, for, otherwise, States would be reluctant to become parties to the Statute. He had concerns, too, about the provision on armed conflict not of an international character, as contained in article 8 (c) and (d). Such conflicts fell entirely within domestic jurisdiction.

97. While he had serious concerns with the provisions outlined, he did not wish to stand in the way of the consensus that had emerged.

98. **Mr. WESTDICKENBERG** (Germany) said that a strong, effective and independent international criminal court would certainly be established. The world would hear the signal that heinous crimes like genocide, crimes against humanity, war crimes and the crime of aggression would no longer go unpunished.

99. **Mr. PERRIN DE BRICHAMBAUT** (France) endorsed the statement made on behalf of the European Union by the representative of Austria. He would sign the Statute establishing the Court because it marked a first, decisive step in establishing a regime of international justice to punish the most serious crimes. France intended to play its full role under all of the provisions of the Statute including, if the time came, those provided for under article 111 *bis*.

100. **Mr. ZAMIR** (Bangladesh) said that he was deeply gratified that the principle of automatic jurisdiction in respect of the core crimes had been vindicated. He welcomed the recognition of sexual violence as amongst the most heinous and repulsive crimes. He was pleased that the basis of harmonious relationship between the ICC and the United Nations organs had been established. However, he regretted that the Conference had not dealt with the question of nuclear weapons and weapons of mass destruction in a way that would respond to the overwhelming concerns of the majority of mankind.

101. He was confident that the ICC would help to rally universal support from the international community and help in the move towards an era of peace and justice.

102. **Mr. GEVORGIAN** (Russian Federation) said that, after more than three years of intense work and effort, an effective, international criminal court had been established that could act fully in accordance with recognized norms and standards of international law and human rights.

103. While noting with satisfaction that a compromise package had been found which he could support, he regretted that it had not been adopted by consensus. Some issues relating to jurisdiction and the Prosecutor, which

he and others had favoured, had not been included. He had serious doubts about the twelve-month period with respect to consideration by the Security Council. Determination of the existence of aggression must be a matter only for the Council. On the whole, however, he felt that the new Court would successfully take its place in the system for the maintenance of international peace and security.

104. **Mr. BAZEL** (Afghanistan) said that his country would have suffered fewer atrocities and horrors if such an accord had existed 20 years earlier. Potential aggressors should be aware that they would no longer have impunity. The overwhelming majority of States had spoken in favour of the criminalization of aggression.

105. The Statute offered one way of achieving justice and rule of law, but he emphasized that a national decision on reconciliation could serve to resolve a conflict and bring normality to a complex situation.

106. **Mr. IDJI** (Benin) said that the adoption of the Statute was a major step forward for humanity as a whole and for Africa in particular. Africa had suffered from the most serious violence for decades.

107. He was not entirely satisfied with the text with respect to war crimes, because such crimes were also committed where a State was no longer in place. Where war lords ruled, should those war lords remain unpunished?

108. While not denying the importance of the Security Council's role, he asked whether it was really right and fair that the Council should be able to block international criminal cases.

109. Nuclear weapons should have been outlawed once and for all. He had not gained satisfaction on those points, but nevertheless welcomed the considerable progress achieved. He hoped that all States would work together for the speedy establishment of a strong and credible court.

110. **Archbishop MARTINO** (Holy See) welcomed the broad agreement on the establishment of an international criminal court to judge the most serious crimes. It was an important step in the long march towards greater justice. He was pleased to note the consensus in introducing the notion of serious crimes into the preamble of the Statute.

111. Consolidation of the rule of law in the international community required a culture of human rights which nurtured the equal dignity of human persons. The establishment of a court to deal with genocide, crimes against humanity, war crimes and aggression must be parallelled by a firm and personal moral commitment to the good of the human family as a whole. The Holy See viewed human dignity as shared by every person, regardless of sex, race, age, ethnic origin or stage in life, from the unborn to the elderly. The Holy See reiterated its condemnation of all violations of international humanitarian law, particularly those aimed at the most vulnerable sections of the civilian population.

112. **Mr. MINOVES TRIQUELL** (Andorra) said that the Statute would strengthen the common bonds of humanity. Throughout the centuries, his country had received thousands of refugees from European wars and was aware of the disasters that such wars left in their wake. Hence it had participated vigorously in the Conference. He was greatly satisfied with the result and hoped that it would serve all future generations.

113. **Mr. SANDOZ** (Observer for the International Committee of the Red Cross) said that he attached great importance to the establishment of an effective international criminal court. The Statute should make possible effective action by the Court against major criminals still at large. Nevertheless, the Statute still required to be completed, and the possibility of revising it in seven years' time was welcome. He stressed the importance of

rapidly drawing up the annex on the use of indiscriminate weapons, especially those of mass destruction. During the first review conference, it should also be possible to introduce punishment for the use of anti-personnel landmines and nuclear weapons.

114. He welcomed the inclusion of non-international conflicts, but regretted the absence of references to the use of famine, indiscriminate attacks and prohibited weapons.

115. The effectiveness of the Court might be impaired, as no war criminal on the territory, or of the nationality, of States that were not party to the Statute could be prosecuted without their agreement. Even for a State party, article 111 *bis* provided an opportunity, albeit a temporary one, to rule out the competence or jurisdiction of the Court for war criminals.

116. If the Court was to be effective, many States must sign and ratify the treaty. The Court must be given adequate financing, judges, a Prosecutor and personnel of the highest integrity. The key to its success lay in proving its competence and thus gaining the confidence of all. At the same time, efforts must be intensified to implement the universal obligation to prosecute and try war criminals, and to develop national legislation in that area. The International Committee of the Red Cross would continue to provide support through consultative services.

117. **Mr. PACE** (Observer for the World Federalist Movement on behalf of the Coalition for an International Criminal Court), speaking on behalf of the 800 member organizations of the Coalition, said that the establishment of an international criminal court would represent a monumental advance, acting as a deterrent and strengthening national legal systems for prosecuting crimes against humanity. It would save millions of humans from suffering unspeakably horrible and inhumane death in the coming decades.

118. **Mr. SANE** (Observer for Amnesty International) said that the common goal of creating an effective, independent, and just international court was much closer to being achieved. There was an independent Prosecutor, empowered to initiate investigations on the basis of information provided by victims. There was a permanent mechanism with competence over the three core crimes. The Court would have the power to award compensation to victims. The Statute expressly recognized that rape and other forms of sexual abuse were war crimes and crimes against humanity. However, Amnesty International was disappointed that a few powerful countries appeared to hold justice hostage and seemed to be more concerned with shielding possible criminals from trial than with introducing a charter for the victims.

119. Amnesty members worldwide would mobilize to ensure that the Court fulfilled its true purpose. They would campaign for universal ratification, by opposing interference by the Security Council, by exposing and shaming States which were considering opting out of the Court's competence over crimes committed by their nationals or on their territory. The ultimate goal of an international community dedicated to ending impunity must be universal jurisdiction.

CLOSURE OF THE CONFERENCE

120. **The PRESIDENT** said that the Conference had marked a fundamental change in the protection of the human being and the fundamental values of humanity. Only 50 years after the adoption of the Universal Declaration of Human Rights, the international community was warning that it would no longer tolerate those who outraged the individual conscience. On the threshold of the third millennium, participants could take pride in their part in the establishment of the Court.

121. He declared the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court closed.

The meeting rose at 2.10 a.m.